

Collective Bargaining Agreement

Department of the Army
Military Traffic Management Command
Deployment Support Command
Fort Eustis, Virginia

And

American Federation of Government
Employees, Local 2855, AFL-CIO
Fort Eustis, Virginia

Preamble

In accordance with Title VII of the Civil Service Reform Act of 1978, and subject to all applicable statutes and regulations, this negotiated EMPLOYER-UNION Agreement, hereafter called the Agreement, is entered into between US Army Military Traffic Management Command, DSC, Ft. Eustis, hereafter referred to as the Employer, and the American Federation of Government Employees, Local 2855, located at the Deployment Support Command, Ft. Eustis, VA, hereinafter referred to as the UNION. Organizations covered by this agreement are: MTMC DSC Ft. Eustis.

Witnesseth

In consideration of the mutual covenants herein set forth, the parties hereby agree as follows:

It is the intent and purpose of the parties to promote and improve the efficient administration of Federal Service and the well being of employees within the meaning of Title VII, to establish basic understanding relative to personnel policy, practices, and procedures affecting conditions of employment within the jurisdiction of the Employer and to provide means for amicable discussion and adjustment of matters of mutual interest, and in fulfilling these responsibilities the parties do affirm that they will cooperate in all efforts to insure good relations among the Employer,

the employees and the local community. This Collective Bargaining Agreement is executed pursuant to the exclusive recognition granted Local 2855, of the American Federation of Government Employees (hereafter referred to as the Union) by US Army Military Traffic Management Command, DSC Ft. Eustis, (hereafter referred to as the Employer).

The efficient administration of the Government and the well being of employees require that orderly and constructive relationships be maintained between the parties.

Subject to law and paramount requirements of the public service, employee-management relations should be improved by providing employees an opportunity for participation in the formulation and implementation of policies and procedures affecting the conditions of their employment. In fulfilling these responsibilities, the PARTIES do affirm that they shall bargain in good faith to ensure good relations.

Article 1 Definitions

1.01. Definitions For purposes of this collective bargaining agreement:

- a. *Agency* means Department of the Army, Military Traffic Management Command Deployment Support Command, Fort Eustis, Virginia, and its management officials, attorneys and agents.
- b. *Agency head* means the Commander of the agency or his designee(s).
- c. *Authority* means the Federal Labor Relations Authority.

d. *Bargaining unit* means the group of employees defined in this article for which the union is their exclusive representative.

e. *Collective bargaining* means the performance of the mutual obligation of representatives of the agency and the union to meet at reasonable times and to consult and bargain in a good faith effort to reach agreement with respect to the conditions of employment of employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached. The parties' mutual obligations, however, do not compel either party to agree to a proposal or make a concession.

f. *Collective bargaining agreement (CBA)* means this agreement and any later written amendments, supplements, etc. thereto, including memorandums of understanding (MOU's) and memorandums of agreement (MOA's) entered into by the parties as a result of collective bargaining pursuant to the statute.

g. *Conditions of employment* means personnel policies, practices and matters, whether established by rule, regulation or otherwise, affecting working conditions, except that such term does not include policies, practices and matters relating to (a) political activities prohibited under 5 U.S.C. Chapter 73, Subchapter III, (b) classification of any position and (c) matters specifically provided for by the Statute.

h. *Consensus* means everyone agrees upon a single alternative and can honestly say, "I believe you understand my point of view and I understand yours. Whether or not I prefer this decision, I support it because it was reached fairly and openly and it is the best solution for us at this time".

i. *Employee* means any person employed by the agency whose permanent duty station is Fort Eustis, Virginia, but does not include professional employees, temporary employees with an appointment of less than

one year, management officials, supervisors, any employee described in 5 U.S. C. §7112(b)(2), (3), (4), (6) and (7) or any other person excluded from the definition of “employee” by 5 U.S.C. § 7103 (a).

j. *Management official* means an individual employed by the agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine or influence the policies of the agency.

k. *Negotiate in good faith* means agency and union representatives have a mutual obligation (i) to approach negotiations with a sincere resolve to reach a collective bargaining agreement, (ii) to be represented at negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment that is negotiable under the statute or the CBA, (iii) to meet at reasonable times and convenient places as frequently as may be necessary and (iv) to avoid unnecessary delays.

l. *NGP* means the negotiated grievance procedure set forth in the CBA.

m. *Panel* means the Federal Service Impasses Panel.

n. *Statute* means the Federal Service Labor-Management Relations Statute, 5 U.S.C. Chapter 71, as amended, unless a different statute is clearly intended.

o. *Supervisor* means any individual employed by the agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline or remove employees, to adjust employees' grievances or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

p. *Union* means Local 2855, American Federation of Government Employees, AFL-CIO, certified by the Authority as the exclusive representative of the employees defined in this article, and its union officials, attorneys and agents.

1.02. Conflicts The definitions set forth in section 7103 of the statute are incorporated into the CBA by reference. In the event of a conflict between any statutory definition and a CBA definition, the statutory definition shall govern.

Article 2 Employee Rights

2.01. General Pursuant to title 5, section 7102 of the statute, employees shall have the right to form, join or assist any labor organization (or to refrain from any such activity), freely and without fear of penalty or reprisal. Employees shall be protected in the exercise of such right.

2.02. Acting as Union Representative Employees shall have the right to act for the union in the capacity of a representative and the right in that capacity to present the union's views to agency management officials and to other officials of the executive branch of the Federal Government, the Congress of the United States or other appropriate authorities.

2.03. Collective Bargaining Employees shall have the right to engage in collective bargaining with the agency concerning conditions of employment through union representatives selected by the employees.

2.04. Other Rights In addition to the rights specified above, employees shall have any and all rights afforded to them by law or regulations.

Article 3

Management Rights and Duties

3.01. General Nothing in the CBA shall affect the authority of any management official of the agency to:

a. Determine the mission, budget, organization, number of employees and internal security practices of the agency.

b. In accordance with applicable laws:

1. Hire, assign, direct, layoff and retain employees in the agency, or suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees; or

2. Assign work, make determinations with respect to contracting out and determine the personnel by which agency operations shall be conducted.

c. With respect to filling positions, make selections for appointment from among properly ranked and certified candidates for promotion or other appropriate sources.

d. Take whatever actions may be necessary to carry out the agency mission during emergencies.

3.02. Agency Election Solely at the election of the agency, the parties may negotiate the numbers, types and grades of employees or positions assigned to any organizational subdivision of the agency, work project or tour of duty, or the technology, methods and means of performing work.

3.03. Impact & Implementation Bargaining Upon request of the union, the parties will meet and discuss or negotiate, as appropriate, procedures which management officials will observe in exercising any management right under the statute or the CBA, as well as appropriate arrangements for employees adversely affected by the exercise of any management right under the statute or the CBA.

3.04. Additional Rights and Duties In addition, the agency shall have all the rights and duties set forth in the statute and the CBA, including (but not limited to) the following:

- a. The duty to annually inform bargaining unit employees of their rights under section 7114 (2)(B) of the statute concerning the qualified right of an employee to union representation incident to being examined by an agency representative in connection with an investigation.
- b. The duty to give the union reasonable notice of proposed changes in conditions of employment and, if requested, to meet with union representatives to discuss or negotiate in good faith concerning any matter that is negotiable under the statute or the CBA.
- c. The duty to refrain from conduct constituting unfair labor practices under section 7116 (a) of the statute.

Article 4 Union Rights and Duties

4.01. Representation Rights and Duties Pursuant to title 5, section 7114 of the statute, the union, as the exclusive representative of bargaining unit employees, has all rights and duties prescribed by the statute and this CBA, including (but not limited to) the following:

- a. The right to act for and negotiate collective bargaining agreements covering all bargaining unit employees;
- b. The duty to represent the interests of all bargaining unit employees without discrimination and without regard to membership in the union.
- c. The right to reasonable advance notices and to be present at any formal discussion between one or more

agency representatives and one or more bargaining unit employees concerning any grievance or other personnel policy or practices or other general condition of employment.

d. The right to reasonable advance notice and to be present at any examination of a bargaining unit employee by an agency representative in connection with an investigation, if the employee reasonably believes the examination may result in disciplinary action against the employee and the employee requests union representation.

e. The duty to refrain from conduct constituting unfair labor practices under section 7116 (b) of the statute.

Article 5

Allotments for Union Dues

5.01. General Upon request of employees, the agency will deduct union dues from employees' pay, on a biweekly basis, in the manner prescribed and subject to the conditions set forth in this article.

5.02. Requests for Payroll Deduction Employees shall request allotments for union dues by executing and submitting Standard Form 1187 to the union. The union will execute Section A of the employee's SF 1187 and deliver the form to the Civilian Personnel Advisory Center (CPAC) (or other office or person designated by the agency), which will certify that the employee is a member of the bargaining unit. The employee's executed SF 1187 will then be delivered to the agency's payroll office for processing not later than 5 calendar days after receipt by the CPAC.

5.03. Payroll Deduction The effective date of the allotment will be the beginning of the pay period following the date the request is received in the payroll office, providing the request is received at least 7 calendar days in advance of

the pay period. Any subsequent change in the employee's payroll deduction for union dues, for whatever reason, will be accomplished by means of a properly executed amended SF 1187. Unless sooner terminated on statutory grounds, allotments for union dues will continue indefinitely until cancelled in accordance with this article.

5.04. Changes in Dues Structure Amount of dues will change based on written certification from the Union President. The written certification will be provided to the CPAC (or other office or person designated by the agency). Change of dues will be effective on the date stated in the letter certifying the change, provided notification is received in the appropriate payroll office 7 days prior to the effective date of the change. The change will be effective the first pay period following notification.

5.05. Termination of Allotment on Statutory Grounds Pursuant to section 7115 of the statute, an employee's allotment for union dues will terminate when the collective bargaining agreement between the parties ceases to be applicable to the employee or the employee is suspended or expelled from membership in the union. Neither the agency nor the union, however, shall be liable to the employee for any continuation of allotments for union dues after a statutory termination event has occurred. The employee shall be principally responsible for notifying the agency to terminate the allotment on the applicable statutory grounds.

5.06. Employee Requests for Cancellations of Allotments Employee authorizations for payroll deduction for union dues may be cancelled at one-year intervals only. For purposes of this article, this one-year period shall be the year ending July 31. An employee wishing to cancel an allotment for union dues after one year may submit a properly executed Standard Form 1188 to the agency payroll office between July 15 and July 31, annually. The effective date of the employee's cancellation will be the beginning of the second pay period in August. The initial cancellation "open period" for employees will be their one-year anniversary date. Employees' subsequent cancellation

"open periods" will be the first July 15-31 periods following the annual anniversary date of their individual allotment requests. Upon receipt, the payroll office will detach and mail the carbon copy of the SF 1188 to the union.

Article 6 Logistical Support

6.01. Office Space The agency will furnish the union, without cost, heated and air- conditioned office space in a building located on Fort Eustis Military Reservation. Such space may be used by the union solely to conduct representational business authorized by the Statute or the CBA.

6.02. Move to Alternate Office Spaces Should it become necessary to relocate the Union to alternate office space, to the extent feasible, the new office space will be at least comparable to the office space from which the union was required to move, and subject to review and coordination with the union prior to the move. The agency will give the union not less than 30-days notice of the requirement to move. The agency, at no cost to the union, will move the union's office furniture and equipment to the new office space and will establish electrical power and telephone service provided pursuant to this article.

6.03. Office Furniture and Equipment The agency, without cost to the union, will initially furnish the union 3 desks, 3 computers, 3 telephones, 1 printer and a fax machine to make the union office space functional for the authorized purpose. The union may utilize agency copiers to make reasonable numbers of copies of documents for official labor-management relations purposes, including collective bargaining, grievances and third party proceedings. A union official will sign for and be pecuniary liable for the office furniture and equipment provided pursuant to this article to the same extent an agency employee would be liable under similar circumstances. The union will be responsible for obtaining its own office supplies. Excepting ordinary wear

and tear, the union is responsible for all costs of maintaining, restoring, cleaning, securing, safeguarding and, as necessary, replacing any office furniture or equipment provided by the agency. Upon reasonable notice, the agency may periodically inspect the condition of agency-provided office furniture and equipment and make an inventory, but not without prior approval of a union official.

6.04. Telecommunication Services Except as otherwise stated telecommunication services installed and provided by the agency in accordance with this section will be without cost to the union. The agency will install a voice telephone line in the union office and provide "local access" and DSN service. The agency also will install an additional non-governmental, "commercial" voice telephone line in the union office capable of providing "local access" and long distance service. The account for this second line is to be established in the union's name and the telecommunications provider(s) will bill the union directly for all telephone service charges stemming there from (including long distance charges). The agency will pay the union a \$50.00 per month (\$600.00 per year) stipend to defray costs of the "commercial" line. The agency-provided fax machine will be connected to the "commercial" line. The agency will insure that all agency-provided computers located in the union office have the capability to access the agency's computer network for the purposes specified in this article. The union's use of agency-provided telecommunication services will be in accordance with government-wide regulations, the agency's policy concerning collection of unauthorized long distance telephone calls and the CBA.

6.05. Access to Agency LAN Union officials may use the agency e-mail system to communicate with management officials, bargaining unit members and vice-versa. The union also may post notices and material directed to employees on an electronic bulletin board on the agency's internet web page provided for this purpose.

6.06. Bulletin Boards The agency will provide the union one bulletin board on each floor of the agency headquarters

building for posting of official notices and other information directed to employees.

6.07. Restrictions Material posted on a bulletin board (including electronic bulletin boards) and sent using the agency e-mail system, may not be of a type that is:

- a. Likely to undermine good order, discipline or morale of the workforce or impedes the agency's ability to perform its mission;
- b. Defamatory or derogatory with respect to any individual;
- c. Intentionally misstates or mischaracterize facts or information known to the party posting the information; or
- d. Is no longer current or accurate.

6.08. New Employee In-processing The agency will list the union on the DSC employee in-processing checklist provided to new bargaining unit members.

6.09. Additional Supplies, Equipment and Services The union may not use any additional supplies, equipment, services or facilities to perform representational functions without the express permission of the agency.

Article 7 Official Time

7.01. General An employee representative of the union shall be authorized official time during the time he otherwise would be in duty status. In any given pay period, the union will not exceed a total of 80 hours of official time allocated for union officers and stewards unless authorized by management. It is the understanding of the parties that no one union official will monopolize all the official time

granted. If the union determines that there is a need for a union officer or steward to exceed this limit in a particular situation, the union will submit a request to exceed the limit in writing to the Civilian Personnel Advisory Center (CPAC). Official time will be authorized for the following purposes:

- a. To prepare for and attend meetings with the agency;
- b. To investigate, prepare and present employee grievances;
- c. To investigate, prepare and present union grievances;
- d. To receive, investigate, and prepare responses to agency grievances;
- e. To represent unit employees in disciplinary and adverse action proceedings;
- f. To participate in periodic union/agency meetings, panels, and committee meetings;
- g. To represent employees during investigatory meetings when requested by the employee;
- h. To prepare for third party proceedings in a representational or witness capacity; and
- i. For administration of the CBA.

7.02. Additional Official Time Official time not subject to the cap specified in section 7.01, above, is authorized for the following additional purposes:

- a. Negotiations within the meaning of section 7131(a) of the statute;
- b. Participation in proceedings of the Federal Labor Relations Authority within the meaning of section 7131(c) of the statute; and

- c. Participation in a representational capacity in third-party proceedings.

7.03. Accountability for Official Time Union representatives will request and receive permission to be released from work on official time to perform representation business by submitting an official time request (Appendix A) to their immediate supervisors. Supervisors will not unreasonably deny the union representative's request. Official time that has been scheduled shall not be denied except for workload emergencies for which alternative employees are not available. Before official time is disapproved, supervisors shall consult with CPAC. In the event the union official's request is denied, an explanation will be provided and the union official will be offered an alternative time not later than close of business the following work day, unless precluded by mission requirements.

7.04. Internal Union Business Activities relating to internal union business (including solicitation of new members, elections of union officials and collection of dues) shall be performed during the time union employee representatives are in a non-duty status.

7.05. Coordination Before a union representative may meet with an employee or otherwise enter a work area to conduct representation business during duty hours, the union representative will coordinate with the work area manager or supervisor. Union representatives will not drop by a management official's office or work area unannounced to conduct representation business, but first shall schedule an appointment with the management official. Unless expressly agreed, no more than one union official may be present during an investigation or formal meeting with an employee. Management officials, likewise, will not drop by a union official's office or work area, unannounced, to conduct labor-management relations business, but first will schedule an appointment with the union official. Management and union officials will conduct representation or labor-management relations business in employee work areas in a professional, non-disruptive manner.

Article 8

Labor-Management Partnership

8.01. General The parties have made a commitment to each other to transform their existing labor-management relationship into a dynamic partnership for reinvention and change, recognizing that for this to occur there must be fundamental changes in the parties' attitudes and behavior towards each other. Change can only be achieved by each seeking to better understand the other's interests, listening to each other's ideas, not attributing ulterior motives to each other's positions or actions, not casting aspersions on each other's representatives, directly dealing with each other at all levels of the organization and sharing information with each other at the earliest possible pre-decisional stages so that both can make informed decisions in furtherance of their individual and joint partnership goals and aspirations.

8.02. Partnership Council The parties believe that their partnership goals and aspirations can best be achieved by the establishment of a Partnership Council with authority to make recommendations to those management and union officials having final decision-making authority concerning the myriad matters affecting conditions of employment. The principal functions of the Partnership Council, therefore, will be the following:

- a. Joint development of a labor relations strategic plan that identifies the parties' labor relations goals, determines the strategy needed to reach those goals and formulates an action plan to carry out the strategy;
- b. Review of issues and formulation of possible solutions to problems that affect conditions of employment such as changes to personnel policies and practices and organizational changes arising from external forces within and without the Federal Government;
- c. Promotion of joint training opportunities for managers, supervisors, union officers and stewards

and employees, generally, in interest-based negotiation (IBN), problem solving and alternative dispute resolution (ADR) techniques and methods; and

d. Development of mechanisms and procedures for pre-decision information sharing, regular consultation and discussion between the parties in regard to matters of mutual interest or concern.

8.03. Composition and Operation of Partnership Council

The partnership council initially will be comprised of three agency and three union representatives. An agency and a union representative will initially co-chair the council. All proceedings will be conducted by consensus of the council representatives. The council may determine its own permanent composition and may adopt procedural rules for conducting council business, to include use of IBN and facilitators and adoption of a charter or by-laws. The initial council meeting will be held not later than 60 days from the effective date of this agreement. Participation in council meetings and activities by union council representatives will be on official time.

8.04. Collective Bargaining The council is not intended to be a forum for collective bargaining. The council, therefore, shall not be empowered to engage in collective bargaining and council members shall not have any authority to legally bind the agency or the union.

Article 9

Changes in Conditions of Employment

9.01. Reasonable Notice Except for actions that may be necessary to carry out the agency mission during emergencies in accordance with section 7106 (a) (2) (D) of the statute, the agency will provide the union reasonable notice of any change in a condition of employment of bargaining unit employees that is subject to collective bargaining. The "reasonable" notice period generally will be

10 days, but may be longer or shorter depending on circumstances. The notice will include sufficient information to enable the union to assess the likely impact of the proposed change on bargaining unit employees.

9.02. Request for Meeting Within the 10-day notice period, the union may request a meeting with the agency to discuss or negotiate the change, whichever is appropriate. If the union requests a meeting, the parties will meet within 5 working days from the date of the union's request.

9.03. Written Counter-proposals If the union wishes to negotiate the proposal, the union must so state in writing, identifying the specific issues it wishes to negotiate and shall furnish the agency written counter-proposals. The parties will meet within 10 working days of the union's request.

9.04. Implementation If the union does not request a meeting within the 10-day notice period, the agency may proceed to implement the proposed change on or after the scheduled implementation date specified in the notice.

9.05. Designated Points of Contact The parties will designate in writing an official point of contact to which notices specified herein are to be made. Notice shall not be effective unless made strictly in accordance with this article.

9.06. Delivery of Notice Written notice on the designated point of contact may be accomplished by personal delivery, courier service, fax or mail.

Article 10

Release of Information

10.01. Release Incident to Collective Bargaining Pursuant to section 7114 (b) (4) of the statute, incident to collective bargaining, upon request of the union, and to the extent not prohibited by law, the agency will furnish the union's

designated representative data that is (a) normally maintained by the agency in the regular course of business, (b) which is reasonably available and necessary for full and proper discussion, understanding and negotiation of matters that are negotiable under the statute or the CBA and (c) which does not constitute guidance, advice, counsel or training provided for management officials or supervisors relating to collective bargaining. The union shall request information in writing from the Civilian Personnel Advisory Center (CPAC). Such data will be furnished to the union without charge.

10.02. Release for Other Purposes The union also may request release of information pursuant to any law (e.g., Freedom of Information Act), rule, regulation or procedure requiring or permitting release of documents, data or other information for which the agency is the legal custodian.

Article 11

Employee Training and Development

11.01. General Training and development of employees to better perform the duties and responsibilities of their current and future positions, enhance the agency's ability to perform its mission while improving employee job satisfaction and morale. Employee training and development will be administered in accordance with law and regulations.

11.02. Training Opportunities The agency will assist employees in locating and distributing information relating to pertinent training and career development opportunities. With input from employees, the agency will endeavor to provide employees on-the-job and formal job-related training to assist them in improving their ability to perform the requirements of their respective positions.

11.03. Training Assignments The agency has the right to determine its training needs and may assign employees to perform such training, as the agency deems necessary or

appropriate. In selecting employees for extended training assignments, the agency will give due consideration to reducing personal hardships that employees may experience attending training, such as long absences from family resulting from required TDY travel.

Article 12 Merit Promotion

12.01. General It is the policy of the agency to assure positions are staffed on the basis of merit and fitness, without regard to political or religious affiliation, marital status, race, color, sex, national origin, non-disqualifying physical handicap or age and are based solely on job-related criteria. Promotion and placement of employees within the agency will be accomplished in accordance with applicable regulations (including the applicable merit promotion and placement plan and supplements) and this article. Selection of an employee for promotion will be based on merit factors, candidate priorities established by law or regulation and job qualifications, including the candidate's knowledge, skills, and abilities (KSA's). Qualification requirements shall be established in accordance with applicable regulations.

12.02. Vacancy Announcements Vacancy announcements will be accessible through the agency's web page and are available at the CPAC. If the agency's web site is down for an extended period of time, the agency will ensure announcements are made available to employees through some other means and may extend the closing date of the announcement. Employees will notify their supervisors in writing about job vacancies for which they are interested in applying during an absence from duty. The supervisor is responsible for (upon written request) submitting the employee's application for vacancies announced during the employee's absence. The CPAC will provide the union a copy of all agency vacancy announcements. Announcements will state the minimum qualifications and any special requirements, and may not be tailored for any

specific employee or applicant. A referral list issued as a result of a merit promotion announcement will remain in effect for 90 days from the closing date of the vacancy announcement. Subsequent vacancies in the same title, series and grade and with the same qualification requirements may be filled from this referral list.

12.03. Employee Responsibility Employees are responsible for ensuring that their Official Personnel Folders (OPF's) document relevant work experience, general and special skills and education.

12.04. Priority Consideration Priority consideration will be given to candidates who were adversely affected by a competitive promotion action resulting from a procedural, regulatory or program violation. Priority consideration means the candidate is to be considered for a job non-competitively before other candidates. Priority consideration may be granted only once each time proper consideration in a competitive promotion action was not given. Priority consideration will be for the next appropriate vacancy to make up for consideration lost. The next appropriate vacancy is one that is a similar type of position, in the same pay system as the position for which the candidate failed to receive proper consideration and at the same grade level, with no higher potential than the position for which consideration was lost.

12.05. Re-promotion The agency is responsible for providing placement assistance to its employees who have been affected by an adverse action not for personal cause. Employees who have been involuntarily demoted for reasons such as reduction in force (RIF), correction of classification error, return from overseas, declination of transfer with function or other adverse action not for personal cause, will be entitled to priority consideration for re-promotion to a vacant position. Current employees who have been involuntarily demoted and who are receiving grade, pay, or salary retention benefits will be granted mandatory re-promotion consideration as long as their retention benefits continue. Re-promotion consideration will

be provided in accordance with the applicable re-promotion program policies.

12.06. Detail/Temporary Promotion A detail is the temporary assignment of an employee to a different position or set of duties for a specified period. The agency will distribute noncompetitive details equitably among employees with consideration being given to such factors as availability, organizational location of employees and knowledge of the particular type of work involved. A selecting official will not make a selection based solely upon the fact that an employee has been detailed to the vacancy. Employees placed on details will be provided beginning and projected ending dates. When an employee is detailed to (and qualified for) an established position of a higher grade, and the assignment exceeds 60 days, use of a temporary promotion instead of a detail is encouraged.

12.07. No Discrimination Identification, qualification, evaluation and selection of candidates will be based solely on job-related criteria and will be made without regard to the candidate's political or religious affiliation, marital status, race, color, sex, national origin, non-disqualifying physical handicap or age.

Article 13

Equal Employment Opportunity

13.01. EEO Policy It is the policy of the agency to provide employees equal employment opportunity, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age or handicap and to promote the full realization of equal employment opportunity through a continuing affirmative program to identify and eliminate discriminatory policies, practices and working conditions. The agency will carefully, justly and expeditiously consider and adjudicate discrimination complaints. The agency will attempt to make reasonable accommodation for qualified handicapped employees in accordance with AR 690-600 and other applicable laws and

regulations. The union pledges full support for the agency's affirmative program.

13.02. Complaints

a. An employee who believes that he has been discriminated against for unlawful reasons may raise the matter under the Department of Army EEO complaint procedures (AR 690-600 or other regulations) or the negotiated grievance procedure (NGP), but not both. For the purpose of this section and pursuant to section 7121 (d) of the statute, an employee shall be deemed to have exercised his option at such time the employee timely initiates an action under one of the two procedures. Selection of the negotiated grievance procedure in no manner prejudices the right of the employee to obtain Merit System Protection Board (MSPB) or, when applicable, Equal Employment Opportunity Commission (EEOC) review of the final decision, as provided by governing statute. Nothing in this agreement will be construed to constitute a waiver of any further appeal or review right provided by statute.

b. A complainant has the right to be accompanied, represented and advised by a representative of his choice during counseling or at any stage of the complaint procedure. The representative, designated in writing by the complainant, will have the same access to information as the complainant. A reasonable amount of official time will be authorized to employees and employees' representatives, who otherwise would be in a duty status to participate in the complaint process.

13.03. Joint Committee The parties may establish a committee or sub-committee of the Labor-Management Partnership Council as a forum for discussing joint labor-management initiatives or projects for enhancing promotion and employment opportunities for employees and for identifying and eliminating policies, practices or working conditions that cause or encourage discrimination

complaints. Such committee (or sub-committee), however, shall not involve itself with particular employee discrimination complaints processed under the NGP or the agency EEO complaint processing procedure.

13.04. ADR It is the policy of the agency and the union to jointly promote and utilize alternative dispute resolution (ADR) methods and techniques whenever possible to resolve EEO complaints, during both the pre-complaint and formal complaint processes.

Article 14

Performance Evaluation

14.01. General Employee performance will be evaluated in accordance with the Army's performance evaluation system and applicable regulations. Evaluations will be made fairly and objectively. The employee's signature on the evaluation form only indicates that he has received the evaluation and does not necessarily reflect agreement with the evaluation.

14.02. Performance Review Discussions Performance review discussions between the employee and the employee's supervisor should be held as often as necessary to enable the supervisor to assess the employee's work and help improve the employee's performance during the rating period, if necessary. Performance review discussions will be held at the midpoint of the employee's annual rating period and at other times prescribed by applicable regulations.

14.03. Performance Elements Performance elements will be identified and performance standards established for each individual employee's position and set of duties, and will be used as a basis for evaluating the employee's performance. Employees are encouraged to participate in identifying performance elements and performance standards for their particular positions. The agency, however, is empowered to establish critical elements and

performance standards for all agency positions and employees.

14.04. Appeals Employees dissatisfied with their performance rating may grieve under the NGP. Performance rating grievances will be initiated at the level of the approving official.

14.05. Reassignment Consideration Before action is taken to separate an employee solely for unsatisfactory performance, the agency will consider reassignment and then demotion as an alternative, provided appropriate vacancies exist.

Article 15

Incentive Awards

15.01. General The purpose of the Army awards program is to recognize excellence on the part of employees in helping the agency perform its assigned mission, thereby motivating them and their fellow employees to strive for even higher levels of excellence and dedicated Army service.

15.02. No Discrimination Incentive awards will be given solely on the basis of merit, without regard to any candidate's political or religious affiliation, sex, race, color, national origin, marital status, or physical or mental handicap. The agency will give full and fair consideration for monetary or honorary awards to any employee meeting the minimum criteria for awards.

15.03. No Entitlement Employees meeting the minimum criteria for awards, while entitled to full and fair consideration, do not have an entitlement to any particular monetary or honorary award.

15.04. Procedures The agency will consult with the union in establishing procedures for referring eligible employees for consideration for monetary or honorary awards.

Nominations for on the spot, special act and time off awards will be prepared on DA Form 1256. An employee's supervisor, the union or any individual having direct knowledge of the act, service or achievement, in coordination with the employee's supervisor, may nominate an employee for an award. Under no circumstances will nominations be discussed with the nominee prior to the award being approved.

Article 16 Scheduling of Work

16.01. General This article principally pertains to the scheduling of work for employees who work a traditional work schedule consisting of a 40-hour basic workweek.

16.02. Definitions For purposes of this article the following terms have these meanings:

a. *Administrative workweek* means the period consisting of 7 consecutive calendar days beginning on Sunday at 0001 hours and ending on Saturday at 2400 hours.

b. *Basic workweek* means, for full-time employees, Monday through Friday workdays, 0730 hours to 1600 hours (with a ½ hour lunch period) and Saturday and Sunday off.

c. *Irregular or occasional overtime work* means overtime work that is not part of an employee's regularly scheduled administrative workweek.

d. *Regular overtime work* means overtime work that is part of an employee's regularly scheduled administrative workweek.

e. *Regularly Scheduled Administrative Workweek* means the period employees are regularly scheduled to work within the administrative workweek. For full

time employees, it includes the basic workweek and any regularly scheduled overtime work. For part time employees, it includes the officially prescribed days and hours during which part time employees are regularly scheduled to work.

f. *Regularly scheduled work* means work the agency has scheduled in advance of an administrative workweek in accordance with provisions of law, regulations and the CBA.

g. *Tour of Duty* means the hours of a day and the days of a workweek that constitute an employee's regularly scheduled administrative workweek.

16.03. Assignment of Work The assignment of work is an exclusive right of the agency. The agency may determine who will perform the work, when the work will be performed, establish the qualifications and skills needed to perform the work and decide whether a particular employee is qualified to perform the work. The agency, however, will give the union notice of any impending changes in working conditions related to assigning work and, upon request, will negotiate their impact and implementation. The agency, in order to carry out its mission, also has the right to vary tours of duty and to change an employee's scheduled hours of duty.

16.04. Establishing Work Schedules Except when the agency determines that it would be seriously handicapped in carrying out its functions or that costs would be substantially increased, the agency will observe the following general rules in establishing employees' work schedules:

- a. Tours of duty will be assigned at least one week in advance;
- b. When possible, work will be scheduled on 5 days, Monday through Friday, with two consecutive days off;
- c. Working hours will be set in a consistent manner;

- d. The workday may not exceed 8 hours (without employees incurring overtime pay entitlements) unless the employee is covered by an alternative work schedule; and
- e. The occurrence of holidays may not affect the designation of the basic workweek

16.05. Changes in Work Schedules

- a. An employee's regularly scheduled administrative workweek will correspond with his actual work requirements. If a manager or supervisor knows in advance that an employee's administrative workweek will differ from the normal tour of duty, the manager will reschedule the employee's administrative workweek to correspond with the specific days and hours the employee is expected to work. The manager or supervisor will inform the employee of the change and record the change on the employee's time card. If a determination is made that the manager or supervisor knew in advance that a period of work should have been scheduled as part of an employee's administrative workweek, and failed to do so, the employee will be entitled to premium pay for that time period as regularly scheduled work.
- b. The following procedures will be used when work schedule changes involve more than one employee:
 - 1. The agency will request qualified volunteers. When more employees volunteer than are needed, selection will be based on service computation date. Seniority in the work unit will be used to break ties.
 - 2. When there are insufficient qualified volunteers, the agency will establish a rotation based on service computation date. Seniority in the work unit will be used to break ties.

- c. Decisions to change the work schedules of union officials will be based on mission requirements. The agency will provide the union the mission requirement reasons for changing work schedules.

16.06. Kinds of Work Schedules The agency, at its sole discretion and in accordance with law, regulations and the CBA, may establish the following kinds of work schedules:

- a. Full Time - Employees work a prearranged scheduled tour of duty (usually 40 hours per week);
- b. Part Time - Employees work a prearranged scheduled tour of duty for a specific number of hours (usually between 16 and 32 hours per week);
- c. Intermittent - Employees work on an irregular basis for which there is no prearranged tour of duty;
- d. Rotating - Employees work a regularly scheduled tour of duty that periodically requires them to serve on a different shift;
- e. Seasonal - Employees work on an annual recurring basis for periods of less than 12 months each year. Employees may have full time, part time or intermittent work schedules during their work season; and
- f. On Call - Employees work when needed during periods of heavy workload with expected cumulative service of at least 6 months in a pay status each year. Employees may work full-time or part-time schedules when in a pay status.

16.07. First 40-Hour Tour of Duty Any employee may be placed on a so-called "first 40-hour tour of duty" when it is impracticable to prescribe a regular schedule of definite hours of duty for each workday of a regularly scheduled administrative workweek. The first 40 hours must be performed within a period of not more than 6 days of the administrative workweek, as the basic workweek. All work performed within the first 40 hours of the workweek is considered regularly scheduled work for premium pay and

hours of duty purposes. Any additional hours of officially ordered or approved work within the administrative workweek are overtime.

16.08. Standby Duty When an employee has a tour of duty which requires him to remain at or within the confines of his official duty station in a standby status, rather than performing actual work, his regularly scheduled administrative workweek will be the total number of regularly scheduled hours of duty in a week. Standby duty is compensated time.

16.09. Time on Official Travel To the maximum extent possible, the agency will schedule official travel within an employee's regularly scheduled workweek. When travel during non-duty hours is required, an employee cannot be compensated for time spent in travel away from the official duty station unless it meets one or more of the conditions set forth in 5 U.S.C. §6101 (b) (2), 5 C.F.R. §550.112 (g) or 5 C.F.R § 551.422.

16.10. Lunch Period; Rest Breaks Employees are entitled to a ½ hour lunch break. During this time employees will be off duty and in a non-pay status; except that if an employee is expressly directed by the agency to perform work during his lunch break, he will be entitled to pay for that time period. With supervisor approval, lunch breaks may be taken anytime between 1000 hours and 1400 hours. In addition to a lunch period, employees are entitled to a 15-minute rest break for each 4 hours of continuous work. Rest breaks cannot immediately precede or be a continuation of the lunch period. Also, rest breaks cannot be taken during the first or last 30 minutes of an employee's tour of duty.

Article 17

Overtime

17.01. General Employees directed to perform overtime shall be paid overtime compensation or other premium pay,

or compensatory time off, as prescribed by law and regulations. One quarter of an hour is the minimum period of overtime that can be authorized. All employees are subject to being assigned overtime work. Nothing in this article will limit the agency's right to assign overtime work to any employee in order to carry out the agency mission during emergencies.

17.02. Overtime Procedure To the extent possible, overtime assignments will be distributed fairly and equitably. First consideration for overtime generally will be given to qualified employees currently assigned to the job. If no currently assigned employees are available, qualified volunteers may be requested from within the work unit. In the event that there are insufficient qualified volunteers within the work unit affected, the agency may ask for volunteers outside the work unit. In the event that there are either too many or too few qualified volunteers, employees will be selected using a "rotation" system within the work unit. The parties recognize that distribution of overtime among employees is affected by the need to continue certain employees on job assignments, inability to notify off-duty employees to report to work and the overall availability of qualified employees to perform overtime requirements at any given time. To facilitate and maximize overtime opportunities for themselves, employees are encouraged to provide a current, working telephone number where they may be reached during non-duty hours.

17.03. Overtime Records Individual work units will maintain records showing all overtime worked or excused in accordance with this article. Union representatives may review the records upon request.

17.04. Notice The agency will notify affected employees as soon as practicable after overtime requirements become known. In cases of unscheduled or emergency overtime, it is recognized that little advance notice may be possible because of unforeseen mission requirements. The agency will give favorable consideration to the request of an employee to be excused from an overtime assignment for personal reasons, provided there is another qualified

employee willing to work in his place. Excused overtime, for whatever reason, will be considered as overtime hours worked for the purpose of determining the equity of overtime distribution among employees .

17.05. Minimum Overtime Due to Callback When it is necessary for employees to return to work outside of their scheduled work hours to perform unscheduled overtime work, they shall be paid a minimum of two-(2) hours overtime.

17.06. Compensatory Time General schedule (GS) and wage grade (WG) employees may request the agency to grant compensatory time off from the employees' tours of duty instead of payment of an equal amount of irregular or occasional overtime work. Excepting those GS employees who are FLSA exempt and earn more than a GS-10, step 10, the agency may not require that employees be compensated for overtime with an equal amount of compensatory time off from the employee's tour of duty. The agency also may not directly or indirectly intimidate, threaten or coerce an employee (or attempt to do so) for the purpose of interfering with the employee's right to request or not request compensatory time off in lieu of payment for overtime hours.

Article 18

Alternative Work Schedules

18.01. Participation in Alternative Work Schedules Participation of employees in an alternative work schedule (AWS) program will be pursuant to a negotiated agreement between the agency and the union. Any such agreement will conform to law and regulations.

18.02. Adverse Impact Determination If the head of the agency (or his designee) determines that a proposed AWS schedule will have an adverse impact on the agency, the agency may not establish such a schedule. For purposes of this article, *adverse agency impact* means a reduction of the agency's productivity, a diminished level of services furnished by the agency to the public, or an increase in the

agency's operating costs (other than an administrative cost to process the establishment of any AWS program).

18.03. Terminating AWS If the head of the agency (or his designee) determines that a particular AWS schedule established by agreement of the parties has had an adverse agency impact, the agency will promptly notify the union that it wishes to re-open the agreement for purposes of obtaining the union's approval to terminate that schedule. In such event, unless otherwise agreed, the parties will meet within 10 days to commence negotiations.

18.04. Impasse Procedure If negotiations are unsuccessful and the union withholds its approval for terminating a particular AWS schedule, either party may declare an impasse. In that event, the matter will be promptly presented to the Panel in accordance with the expedited impasse resolution procedures prescribed by law and regulation, for a decision as to whether the evidence supports the agency's adverse impact determination. The agency may not terminate the AWS in question until agreement is reached with the union or the Panel issues a decision sustaining the agency's adverse impact determination, whichever occurs first.

18.05. Compressed Work Schedule Models The parties may craft and utilize any compressed work schedule (CWS) model for individuals or work units that conforms to the basic work requirement and other restrictions prescribed by law and regulations. Participation of employees in CWS in a particular work unit may be voluntary or made mandatory by agreement of the parties.

18.06. Existing AWS Agreements Notwithstanding any provision of the CBA, an AWS agreement in effect on the date the CBA is signed by the parties, to the extent such agreement is not inconsistent with this article, shall remain in full force and effect until terminated or amended by later agreement of the parties.

Article 19

Contracting Out

19.01. Management Right The agency shall have the right to make determinations concerning contracting out of agency functions and activities in accordance with 10 USC 2467, OMB Circular A-76 and its supplements, and other applicable laws, rules, and regulations.

19.02. Consultation with Union The agency will advise the union at the earliest possible stages of development whenever agency functions or activities are being reviewed under the Government's commercial activities program for possible contracting out. The agency will consult with and obtain the union's views in preparing performance work statements, management studies, quality assurance plans, the most efficient organization (MEO) and in developing milestones.

19.03. Notice of Proposed Change In the event the agency decides to contract out an agency function or activity, the agency will give the union notice of the proposed change in a condition of employment in accordance with article 9 of the CBA.

Article 20

Reduction-In-Force

20.01. General The agency may undertake a reduction-in-force (RIF) whenever it is necessary to release an employee from his competitive level by furlough for more than thirty (30) calendar days, separation, demotion or reassignment requiring displacement of any employee. RIF action may be undertaken because of a lack of work, shortage of funds, reorganization, contracting out, exercise of reemployment rights or job restoration rights by an employee, or reclassification of an employee's positions due

to erosion of duties. RIF action will be carried out in accordance with applicable regulations and this article.

20.02. Notice to Union When a RIF is pending, the agency will provide the union written notice containing the following:

- a. A statement that a RIF is pending
- b. The reason(s) for the RIF;
- c. The approximate number of positions/employees that are affected;
- d. The proposed effective date of the RIF; and
- e. When the information becomes available, the specific positions and names of employees who will be affected.

20.03. Confidential Information Any information the agency provides the union concerning a proposed RIF is strictly confidential and may not be disclosed until the agency has officially notified all affected employees of the RIF.

20.04. RIF Procedure The following RIF procedure will be observed:

- a. Competitive Area A competitive area established by the agency for RIF competition is determined in terms of the organizational unit and geographical location and it must include all employees within that competitive area. Employees can displace other employees only within their competitive areas.
- b. Notice to Employees Those employees affected by the pending RIF will receive written notice a minimum of sixty (60) calendar days prior to the effective date of the RIF. The written notice shall contain all information required by applicable regulations.
- c. Access to Retention Registers Upon request, affected employees or their designated representatives

will be afforded an opportunity to review retention register(s) and other documents pertaining to the RIF and to discuss RIF procedures with designated agency representatives.

d. Counseling and Placement Assistance Affected employees will be offered counseling concerning retirement eligibility and benefits and the Department of Defense (DOD) Priority Placement Program (PPP) and other available job placement and reemployment programs.

e. Performance Appraisals Additional service credit based on performance is governed by applicable regulations. The performance appraisal cut-off date is sixty (60) calendar days prior to the date employees' RIF notices are issued. Performance appraisals due on or before the cut-off date, but which were not officially approved and made a matter of record until after the cut-off, will not be considered for employees retention standing purposes.

f. Vacant Positions The agency will give priority consideration to placing employees affected by RIF in vacant positions. The Agency may waive certain qualification requirements when placing affected employees in vacant positions, as provided by applicable regulations.

g. Relocation Costs The agency will pay affected employees' relocation costs authorized by the Joint Travel Regulations.

h. Individual Employee Counseling Upon request, the agency will provide employees individual counseling and advice concerning job application preparation, placement assistance, etc.

i. Placement and Reemployment Programs Employees downgraded or separated from Federal Service may be placed on PPP registers. Unless deleted from the

Reemployment Priority List (RPL) for a reason specified in applicable regulations, a career employee can remain on the RPL for two (2) years and a career-conditional employee for one (1) year.

j. Excused Absence Upon request, an employee being separated by reason of RIF may be given a reasonable amount of administrative leave to facilitate his job-seeking efforts.

k. Minimizing Effects of RIF When appropriate, the agency will endeavor to minimize the negative impact of the RIF on employees using tools it has available for this purpose under applicable law, rules, regulations and policies.

20.05. Appeals and Grievances An employee who has been subjected to an adverse action resulting from a RIF may appeal to the Merit Systems Protection Board in accordance with regulations prescribed by the Board. Other matters are subject to the negotiated grievance procedure (NGP).

20.06. I&I Collective Bargaining Agreement The provisions of this article contain and constitute the parties' collective bargaining agreement concerning the impact and implementation (I&I) of any future RIF initiated by the agency during the term of the CBA. Changes to these procedures require I&I collective bargaining.

Article 21

Use of Military Personnel

21.01. General Use of military personnel to perform the duties of authorized civilian positions within the agency will be in accordance with AR 570-4 and other appropriate Department of Defense and Department of the Army directives, regulations and policies.

21.02. Impact on Morale Both parties recognize the serious morale factor that exists when military personnel are

assigned work that historically has been performed by civilians. Therefore, it is agreed that every effort will be made by the agency to assign work to the civilian workforce before using military personnel on a long-term basis.

21.03. No Abrogation The parties understand that the above will not abrogate or diminish the agency's rights.

Article 22

Civilian Counseling Services

22.01. Joint Cooperation The agency and the union jointly endorse the goal of early identification and referral of employees with possible alcohol, drug abuse or other serious personal problems affecting their conduct or work performance. In these cases, the parties pledge cooperation to assist the employees, by referring them for professional counseling, screening and diagnosis. Voluntary employee participation in counseling and rehabilitation services is likely to be facilitated if the employee clearly understands that unless his problem is identified and corrected, he may be subjected to disciplinary, adverse, or other appropriate action by the agency to address his conduct or performance problems. The union, because of its special relationship with employees, can offer employees understanding, sympathy, guidance and support.

22.02. Obtaining Services

- a. Employees seeking the help of Civilian Counseling Services may schedule an appointment.
- b. The parties, either jointly or separately, may also schedule an appointment for an employee.
- c. Agency-sponsored Civilian Counseling Services are available to employees without charge.

d. It is agreed and understood by the parties that Civilian Counseling Services will be administered in accordance with applicable laws and regulations.

22.03. Focus on Job Performance The agency has the right and responsibility to discuss with employees their work performance and conduct. The focus of discussions shall be the employees' job performance and conduct and not diagnosis of or moral judgments concerning employees' substance abuse, emotional, or other problems. The union has the right to be present at any examination of an employee by an agency representative in connection with an investigation, if the employee reasonably believes the examination may result in disciplinary action against the employee and the employee requests union representation.

22.04. Support and Assistance If the agency determines that referral to Civilian Counseling Services is appropriate, the union will further support and assist in encouraging the employee to respond positively to referral. This support and assistance may include joint discussions by the parties. Employee participation in Civilian Counseling Services is voluntary. However, when an employee refuses a referral, appropriate action for job performance or conduct may be taken.

22.05. Offer of Assistance An employee who personally acknowledges or is diagnosed with a substance abuse or emotional problem affecting his conduct or work performance will be offered assistance and rehabilitation. However, whether an employee does or does not seek assistance or rehabilitation will not preclude the agency from taking appropriate disciplinary action or adverse action.

22.06. Authorization of Leave Employees will be authorized appropriate leave in accordance with applicable rules, regulations and the CBA, to obtain treatment and rehabilitation.

22.07. Confidentiality All discussions, counseling sessions, and records of Civilian Counseling Services, or any other

program to which an employee may be referred, are confidential in accordance with applicable law and regulations. Normally, no information may be disclosed without the prior written consent of the employee.

22.08. Promotion Opportunities Not Jeopardized Employment or promotion opportunities will not be jeopardized because of prior alcohol or drug counseling or by request for counseling or referral assistance for other problems.

22.09. Joint Committee The agency and the union may establish as a committee (or subcommittee) of the Labor-Management Partnership Council, a joint committee to discuss and make recommendations regarding the needs of the workforce related to the agency's Alcohol and Drug Abuse Prevention and Control Program and Civilian Counseling Services.

Article 23 Smoking

23.01. General The Department of Defense policy on smoking and use of tobacco products is intended to protect employees from the effects of second-hand smoke while not unnecessarily inconveniencing employees who desire to smoke.

23.02. Designated Smoking Areas Smoking or other use of tobacco products is prohibited in all government vehicles and buildings and within 50 feet of main entranceways or exits to buildings and facilities where an outside shelter providing overhead protection from the elements is reasonably available. A shelter is reasonably available if an employee can walk to it, consume a cigarette, and walk back to his duty location within normal rest periods. Employees, with the approval of their supervisors, may take breaks in increments to smoke in designated smoking areas.

Article 24 Parking

24.01. POV Parking Subject to availability and compliance with installation traffic regulations, employees, on a first come-first served basis, may park their personally owned vehicles (POV's) in unrestricted parking spaces adjacent to their duty stations.

24.02. Reserved Union Space The agency will provide the union one reserved parking space near the agency headquarters building. Union officials who are not DSC employees may use "Official Visitor" parking spaces while performing representational business.

24.03. Handicapped Parking The agency will provide reserved handicapped parking space near the work site for employees who meet the criteria under state regulations to park in reserved handicapped parking spaces. The agency will ensure that there is sufficient reserved handicapped parking available to accommodate all current and new employees who meet these criteria.

Article 25 Annual Leave

25.01. General Employees will accrue annual leave according to applicable law and regulations. Annual leave will be scheduled fairly and equitably. Annual leave is for the benefit of employees. Use of annual leave by employees, however, is subject to prior agency approval. All leave should be recorded on Standard Form 71.

25.02. Scheduled Annual Leave Annual leave shall be granted to employees for the purpose of rest, relaxation, recreation, etc., consistent with workload requirements and controlling statute and regulations. Employees will use Standard Form 71 to request leave.

25.03. Emergency Annual Leave An employee who is unable to report for duty (or is delayed) due to a personal emergency will request annual leave by notifying the supervisor (or his designee) in person or by telephone within the first two hours of the employee's tour of duty. The employee will state the reason he is absent and give an approximate time he will report for work. Should a request for approval of emergency annual leave be denied, the supervisor will grant the employee a reasonable amount of time to report to duty. Any time missed from work due to the employee's request for emergency annual leave and its subsequent denial will be charged to the appropriate leave category.

25.04. Use or Lose Annual Leave Employees should schedule "use or lose" annual leave during the leave year to avoid forfeiture at year-end. Any restoration of use or lose annual leave will be in accordance with applicable regulations.

25.05. Cancellation of Approved Leave The agency, in deciding whether to cancel an employee's previously approved leave, will take into consideration work exigencies and non-reimbursable expenses actually incurred by the employee, if any, subsequent to the time the employee's leave was approved.

Article 26 Court Leave

26.01. General Court leave will be approved in accordance with law and applicable regulations for an employee who is summoned in connection with a judicial proceeding by a court or authority responsible for the conduct of that proceeding to serve as a juror or as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia or a state or local government is a party. When an employee is called as a witness, or juror, he shall immediately notify his

supervisor and submit a copy of the subpoena or summons. Upon completion of service, the employee shall submit written evidence of the time he served as a witness or juror. All leave should be recorded on Standard Form 71.

26.02. Return to Duty Employees will return to work when excused by the court unless the employee's supervisor determines that returning to work would be impractical. If excused early from jury duty employees will contact their immediate supervisors for a determination concerning their work status for the remainder of the workday. Failure to do may result in a charge to annual leave, leave without pay (LWOP) or absence without leave (AWOL).

Article 27 Family and Medical Leave

27.01. General Approval of an employee's request for family and medical leave will be in accordance with applicable law, regulations and subsequent amendments. All leave should be recorded on Standard Form 71.

27.02. Entitlement Employees are eligible for 12 workweeks of unpaid leave during any 12-month period for the following purposes:

- a. Birth of the employee's son or daughter and subsequent care of the infant;
- b. Placement of a son or daughter with the employee for adoption or foster care;
- c. Care of the employee's spouse, son, daughter or parent who has a serious health condition; or
- d. Employee's own serious health condition that makes him unable to perform the essential functions of his position.

27.03. Intermittent Use Under certain conditions, an employee may use the 12 weeks of leave intermittently. An

employee may elect to substitute annual leave or sick leave, consistent with applicable laws and regulations for using annual and sick leave, for any unpaid leave under the FMLA. FMLA leave is in addition to other paid time off available to an employee.

27.04. Protection of Job Benefits Upon reporting for duty, the employee must be returned to his same position or to another position with equivalent benefits, pay, status and other terms and conditions of employment. Employees who take leave are entitled to maintain health benefits coverage and may pay their share of health insurance premiums on a current basis or following return to work.

27.05. Advance Notice and Medical Certification

Employees will provide the agency written notice of their intent to take family and medical leave not less than 30 days before the leave is to begin, or as soon as practicable under the circumstances. If leave is for the purpose of taking care of an employee's spouse, son, daughter or parent who has a serious health condition, or due to the serious health condition of the employee requesting leave, upon request, the employee will provide the agency medical certification of the person's serious health condition.

Article 28

Leave Without Pay

28.01. General Leave without pay (LWOP) is a temporary non-pay status and absence from duty that, in most cases, is granted at the employee's request. In most instances, granting LWOP is a matter of supervisory discretion.

Article 29

Sick Leave

29.01. General When requested in accordance with this article, and in accordance with applicable regulations, accrued sick leave will be granted to an eligible employee:

- a. To undergo medical, dental, or optical examination or treatment;
- b. Who is incapacitated as the result of physical or mental illness, injury, pregnancy or childbirth;
- c. To make arrangements necessitated by the death of a family member or to attend the funeral of a family member;
- d. To avoid exposing co-workers to communicable diseases; and
- e. For purposes relating to the adoption of a child.

29.02. Supervisor's Inquiry When an employee requests sick leave, the supervisor may inquire regarding the general nature of the illness or incapacity, expected duration of the incapacity and, in accordance with this article, may request supporting medical documentation. All leave should be recorded on the Standard Form 71.

29.03. Request for Approval Employees will request approval of sick leave from their supervisors (or their supervisors' designees), in person or by telephone, within the first two hours the employees' tours of duty begins, unless employees are physically incapacitated to such degree that they are prevented from doing so, in which case, employees will request approval of sick leave as soon as practicable.

29.04. Periodic Update Employees will contact their supervisor (or designee) each successive day they are incapacitated, unless other arrangements have been made between the employee and the supervisor.

29.05. Advance Scheduling Except in cases of emergency or circumstances beyond the employee's control, sick leave for medical, dental or optical appointments will be requested at least three (3) workdays in advance of the appointment. The employee will furnish the date and time of his appointment when he requests sick leave. Whenever possible, employees will schedule medical, dental, and optical appointments during non-duty hours.

29.06. Medical Certificates Unless an employee is suspected of abusing sick leave, a medical certificate generally will not be required if the employee is absent three consecutive workdays (or less). If the employee is absent for more than three consecutive workdays, the employee will furnish his supervisor a medical certificate within three days after he returns to duty. A statement signed by the employee explaining the nature of his illness may be accepted when the illness did not require the services of a physician.

29.07. Abuse of Sick Leave In individual cases, when the agency has reason to believe an employee is abusing sick leave, the agency may counsel the employee and may notify the employee in writing that he is under a continuing requirement to submit medical certificates for each absence for illness, irrespective of duration or purpose. The agency will review the employee's sick leave record at the end of six months. If the review reveals a substantial improvement in the employee's work attendance and his usage of sick leave during the review period the employee will be notified in writing that, henceforth, medical certificates will only be required in those circumstances specified in this article. If there has been no satisfactory improvement, in addition to appropriate personnel action, the employee will be advised that the special medical certification requirement will continue until further notice.

29.08. Advance of Sick Leave In case of serious illness or incapacity, upon written request of an employee, the agency may advance the employee sick leave not to exceed 30 workdays, subject to the following:

- a. The employee has exhausted his accrued sick leave, "use or lose" annual leave and regular annual leave;
- b. The employee has provided the agency written assurance that he will be able to return to work and continue working long enough to repay the sick leave advance;
- c. The employee has provided a medical certificate from an attending physician stating the nature of his illness or incapacity, prognosis, and expected physical limitations, if any, on his ability to perform work following his return to duty; and
- d. The employee has a prior record of responsible sick leave usage.

Article 30 Health and Safety

30.01. General The agency and the union pledge their joint cooperation in ensuring that employee workplaces are reasonably safe and environmentally healthy.

30.02. Employee Responsibilities Employees are responsible for observing work rules and practices to protect themselves and fellow workers from accidental injury or illness.

30.03. Agency Responsibilities The agency is responsible for providing employees safe and environmentally healthy work places. Upon receiving a report of an unhealthy or hazardous workplace condition from an employee or the union, the agency will promptly consider what corrective action, if any, is required. The agency will make a first aid kit reasonably available.

30.04. Union Responsibilities The union is responsible for promptly reporting unsafe, unhealthy or hazardous working

conditions to the agency and will take affirmative action to encourage employees to observe safety rules and practices in the workplace.

30.05. Protective Clothing, Etc. Where necessary to safely accomplish a task, the agency will furnish employees protective clothing in accordance with applicable regulations. All tools or equipment the agency requires an employee to possess to safely perform work will be furnished to the employee at no cost. The agency will expedite acquisition of protective clothing, tools or other safety equipment the agency deems necessary for safe work.

30.06. Rest Rooms The agency will provide employees a reasonable number of separate male and female rest room facilities as near to employee work areas as feasible given the design and location of the office building or facility where employees are located. Rest rooms and fixtures will be clean, hygienic and operational.

30.07. Reporting of Accidents Employees will immediately report job-related accidents or injuries to the agency. The agency will promptly document job-related accidents or injuries in accordance with agency SOP and will ensure that injured employees receive necessary emergency medical treatment. The time an employee spends receiving emergency medical treatment for an on the job injury or illness during work hours will constitute administrative leave.

30.08. Light Duty An employee may be assigned "light duty" work only after a medical doctor has made a written determination that an employee cannot perform the full range of duties of his regular job assignment(s). Light duty work authorized for an injured or ill employee should not be such that the employee's recuperation, as determined by a medical doctor, is impeded. The agency reserves the right to have an employee undergo an independent fitness for duty examination in accordance with applicable regulations. The agency will advise the employee of his light duty work assignment in writing. The agency reserves the right to review light duty work assignments at any time and to take

whatever action is indicated under the circumstances.

30.09. Joint Health and Safety Committee The agency and the union may establish as a committee (or subcommittee) of the Labor-Management Partnership Council, a joint health and safety committee to discuss and make recommendations to the agency for improving the health and safety of the workplace. The committee (or subcommittee), however, may not involve itself with specific employee worker's compensation claims or tort claims brought against the agency.

Article 31

Environmental Differential and Hazardous Duty Pay

31.01. OSHA Standards When the agency determines that a local work situation is such that it should be included for coverage and payment of a differential, it will notify the union of its determination as soon as practicable. Payment of environmental differential or hazardous duty pay to employees for exposure to asbestos or any other workplace hazard will be made strictly in accordance with law and regulations and only when the level of exposure exceeds applicable Occupational Safety and Health Administration (OSHA) standards.

Article 32

Disciplinary and Adverse Action

32.01. Principal Focus Maintaining the good order, discipline, morale and safety of the work force is the principal focus of disciplinary and adverse action. Such action will be taken only for reasons that promote the efficiency of the Federal Service. Disciplinary or adverse action will be processed in accordance with applicable

regulations and this article and will be initiated in a timely manner.

32.02. Definitions for purposes of this article:

- a. *Disciplinary action* means suspension from duty and pay status for fourteen (14) days or less, or a letter of reprimand.
- b. *Adverse action* means removal, suspension of more than fourteen (14) days, reduction in grade, reduction in pay or a furlough of thirty (30) days or less.
- c. *Furlough* means a temporary non-pay status and absence from duty required by the agency because a lack of work or other non-disciplinary reasons.

32.03. Procedure (Disciplinary Action) An employee against whom disciplinary action (except letters of reprimand) is proposed is entitled to:

- a. Written notice stating the specific reasons for the proposed action;
- b. Minimum fourteen (14) calendar days in which to reply, orally and/or in writing, and to furnish affidavits or other evidence in support of the reply.
- c. A representative of the employee's choosing; and
- d. A written decision at the earliest practicable date stating specific reasons.

32.04. Procedure (Adverse Action) An employee against whom adverse action is proposed is entitled to:

- a. At least thirty (30) calendar days advance written notice (except where there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed) stating the specific reasons for the proposed action;

- b. Not less than fourteen (14) calendar days to reply orally and/or in writing and to furnish affidavits and other evidence in support of the reply;
- c. A written decision at the earliest practicable date stating specific reasons;
- d. A representative of the employee's own choosing; and
- e. Notice of appeal rights.

32.05. Extension of Time Limits Time limits in this article may be extended by mutual written agreement.

32.06. Appeal (Disciplinary Actions) Disciplinary actions may be appealed only under the negotiated grievance procedure. Appeals will be submitted to the deciding official.

32.07. Appeal (Adverse Action) An employee may appeal his adverse action to the Merit Systems Protection Board in accordance with applicable procedures or the employee may grieve the matter under the negotiated grievance procedure, but not both.

32.08. Union Representation An employee may request union representation at any examination conducted by an agency representative in connection with an investigation if the employee reasonably believes the examination may result in disciplinary or adverse action and the employee requests union representation.

Article 33 Alternative Discipline

33.01. General The alternative discipline (AD) program allows management and an employee facing disciplinary action to agree to an alternative form of corrective action, in lieu of traditional discipline. This may include a full range of

penalties, including reduced suspensions, probation, financial restitution, community service, training, donations of leave, or other mutually agreed upon corrective actions. Any of the involved parties can contribute ideas to the proposed alternative discipline corrective action. The supervisor, employee and, where appropriate, the employee's designated union representative, must agree on the alternative penalty to be imposed. The objective of the program is to provide managers with a means to address employee misconduct in a manner involving shared responsibility that improves working relationships and enhances the efficiency of the service. It is intended to provide rapid resolution to problems, avoid the costs and lost time resulting from use of formal complaint systems and contribute to a more positive resolution to problems from both management's and the employee's perspective. It is not used in situations where removal is warranted or where legally prescribed penalties apply to the violation.

33.02. Agreement Alternative Discipline agreements include an admission of fault or wrongdoing, acknowledgement of the penalty being replaced, commitment to improve future conduct, and waiver of grievance and appeal rights. A fundamental condition of alternative discipline is that the employee admits to the misconduct, accepts responsibility for it, and agrees not to repeat the misconduct. The employee's participation in AD is strictly *voluntary*. The employee may refuse the agency's offer of alternative discipline. If there is no agreement between the employee and management, the matter reverts to traditional disciplinary methods.

33.03. Formal Offer When management determines that an employee's misconduct should be afforded AD treatment, a meeting will be scheduled with the employee to discuss AD and go over the specific terms and requirements of the proposed alternative discipline. The employee may execute an agreement at the meeting but, in any event, will only have five (5) working days in which to accept the agency's AD offer by signing the AD agreement, failing which, the offer will be withdrawn and the misconduct will be handled under standard discipline procedures. The AD agreement

will become effective immediately upon signing by the parties. If the employee fails to satisfy the terms and conditions of the AD agreement, the employee is notified in writing that the agreement was violated and the traditional penalty, which was identified in the AD agreement, will be immediately imposed.

Article 34

Negotiated Grievance Procedure

34.01. General This article establishes procedures for settlement of employee, union and agency grievances, including questions of arbitrability. Except as otherwise provided, this negotiated grievance procedure (NGP) is the exclusive procedure for resolving disputes falling within its coverage.

34.02. Coverage The following persons may grieve under the NGP:

- a. An employee concerning a condition of employment personally affecting him;
- b. The union concerning a condition of employment affecting bargaining unit employees; or
- c. The agency or the union concerning any alleged violation or misinterpretation of the CBA or any other regulation, policy or practice affecting conditions of employment of bargaining unit employees.

34.03. Matters Excluded from Coverage Grievances concerning the following matters are excluded from coverage of the NGP:

- a. Claimed violations of 5 U.S.C Chapter 73, Subchapter III (relating to prohibited political activities);
- b. Retirement, life insurance or health insurance;

- c. Suspension or removal of an employee for national security violations under 5 U.S.C. § 7532;
- d. Any examination, certification or appointment;
- e. The classification of any position that does not result in the reduction in grade or pay of an employee;
- f. Non-selection from a group of properly ranked and certified candidates (however, the procedures used to identify and rank qualified candidates may be proper subjects of grievances);
- g. Proposed disciplinary or adverse action (however, the final decision of the proposed action is grievable unless otherwise excluded);
- h. The establishment of an employee's performance standards and performance elements/objectives. The application of standards and elements/objectives, however, is grievable;
- i. Adverse actions resulting from reduction-in-force (RIF) actions;
- j. Termination of probationary employees;
- k. Return of an employee serving a probationary period as a supervisor or manager to a non-supervisory or non-managerial position;
- l. Termination or expiration of time-limited appointments or promotions, provided the employee was informed in advance of the temporary nature of the appointment or promotion and the employee was returned to his former position from which temporarily appointed or promoted or to a different position of equivalent grade or pay;

m. Failure of the agency to adopt an employee's suggestion or pay the employee a specified sum for a suggestion that was adopted; and

n. Any employee grievance concerning a subject matter or issue substantially the same as a previously decided grievance (or appeal) involving the same employee decided under a statutory, regulatory or other dispute resolution process or procedure.

o. Contracting out matters. The union may grieve/appeal under other applicable procedures.

34.04. Extension of Time Limits All time limits in this article may be extended by mutual written agreement. Failure of a management official to comply with applicable time limits will constitute a valid basis for the grievance to be advanced to the next higher step of the negotiated grievance procedure (NGP). If the aggrieved employee or his representative fail to comply with applicable time limits, the grievance will automatically be denied, unless the aggrieved employee or his representative can show valid reasons for not observing the time limit.

34.05. Representation of Employees An employee electing to use the negotiated grievance procedure (NGP) may be represented by the union, or the employee may represent himself. If the employee elects to represent himself, the union will be afforded the opportunity to attend and observe any meetings between the agency and the employee conducted in an attempt to resolve the dispute. The union will be provided a copy of the agency's written decision (if applicable) concerning the employee's grievance. The terms of any settlement of the grievance will conform to applicable provisions of the CBA. Only the union may invoke binding arbitration on behalf of the employee.

34.06. Notice of Grievance In presenting a grievance at any Step of the negotiated grievance procedure (NGP), either the aggrieved employee or his representative shall inform the agency that he is presenting a "grievance" for processing under the NGP.

34.07. Duplicative Grievances If two or more employees file identical grievances (where the basis for the grievance and corrective action sought are identical), the grievance shall be processed as a group grievance with one employee serving as the representative grievant. The processing and resolution of the group grievance shall apply to all grievants in the group.

34.08. No Petitioning for Grievances The union and union officials shall not petition grievances from employees.

34.09. Grievance File The agency will assemble an official grievance file for each formal grievance. The file will contain all documents (or copies of documents) related to the grievance. Upon request to CPAC, the file may be reviewed by and copies will be provided free of charge to the employee or the union, except that the agency has no obligation to furnish documents that are legally privileged, constitute attorney work product, are classified, or are otherwise exempt from disclosure by law or regulation.

34.10. Grievance Procedures The following procedures are established for the settlement of grievances:

Step 1 The aggrieved employee or his representative, if any, will notify the employee's immediate supervisor within 15 work days from the date the employee becomes aware of the incident giving rise to his complaint that he intends to initiate a grievance.

NOTE: A grievance concerning a disciplinary action will be filed with the deciding official. The supervisor will make arrangements to meet with the employee within 5 workdays. The supervisor shall be obligated to thoroughly investigate the incident giving rise to the employee's complaint. If the matter is within the scope of his authority, the supervisor will make a good faith effort to work out a mutually acceptable solution. The supervisor will notify the employee of his decision within 5 workdays from the date of their meeting. If no resolution is reached or the matter is outside the scope of the supervisor's authority, the discussion will focus on clarifying the problem and determining the

appropriate person to consider the grievance at Step 2.

Step 2 If the employee's complaint is not satisfactorily settled at Step 1, the employee or his representative, within 5 workdays from the date of the Step 1 supervisor's decision, may initiate a grievance in writing on the grievance form (Appendix A) with the supervisor or management official below the commander having the authority to make a decision on the matter(s) involved in the grievance. The supervisor or management official below the commander will meet with the aggrieved employee and his representative, if any, within 5 working days after receipt of the grievance and will provide his written decision (on the grievance form) to the aggrieved employee within 10 working days after the conclusion of the meeting.

Step 3 If the grievance is not settled at Step 2, the employee or his representative may, within 5 workdays, submit the matter in writing on the grievance form (Appendix A) to the commander (or designee), through CPAC. The commander (or designee) will undertake whatever review and investigation he deems necessary and will provide the aggrieved employee or his representative, if any, a written decision (on the grievance form) within 15 workdays after receipt of the grievance. If the agency head's (or designee's) decision is not acceptable to the union, the union may invoke arbitration in accordance with Article 35.

34.11. Union Grievances The union president (or designee) may submit grievances, in writing, to the commander (or designee), through CPAC, within 15 workdays after the occurrence of the action or incident being grieved or the date the union becomes aware of the incident. The commander and the union president (or their designees) will meet within 10 working days after receipt of the grievance to discuss the grievance. The agency will give the union a written decision within 15 workdays after the meeting. If the grievance is not settled the union may invoke arbitration in accordance with Article 35. Nothing herein is intended to

preclude the parties from attempting to settle union grievances informally at lower levels within the agency.

34.12. Agency Grievances The commander (or designee) may submit grievances, in writing, to the union president, within 15 workdays after the occurrence of the action or incident being grieved, or the date the agency becomes aware of the incident. The commander and the union president (or designees) will meet within 10 working days after receipt of the grievance to discuss the grievance. The union president (or designee) will give the agency a written decision within 15 workdays after the meeting. If the grievance is not settled the agency may invoke arbitration in accordance with Article 35. Nothing herein is intended to preclude the parties from attempting to settle agency grievances informally at lower levels within the agency.

34.13. Grievance Information To receive consideration by the agency, an employee's grievance must contain all the information contained in the "Grievance Form" set out in Appendix B. The grievance shall contain sufficient detailed information to enable the deciding official to ascertain the nature of the grievance. The employee must sign and date the grievance. The remedy being sought must be specific and personal to the employee. Employees may not request as a remedy disciplinary or other personnel action against a management official, supervisor or other employee.

34.14. Appeal Procedure (Adverse Action Appeals) An employee who has been subjected to an adverse personnel action (e.g., removal, suspension for more than 14 days, reduction in grade or pay) shall have the option of appealing the action to the Merit Systems Protection Board (MSPB) or filing a grievance in accordance with the procedures contained in this article, but not both. An employee will be deemed to have exercised his option at the time he files a notice of appeal under applicable MSPB appeal procedures or submits a formal written grievance to the agency under the NGP, whichever occurs first. An employee wishing to grieve the final agency decision may elect to have the union immediately invoke binding arbitration on his behalf or have

his grievance processed in accordance with the regular procedures of the NGP.

34.15. Notice of Arbitration Should the agency or the union wish to invoke binding arbitration to resolve any grievance, the grieving party shall give written notice to the responding party within 10 days of receipt of the agency's or the union's decision concerning the grievance (or date the grievance is deemed to have been denied). Thereafter, binding arbitration shall proceed in accordance with article 35.

34.16. Determinations Concerning Arbitrability Disputes as to whether an issue is grievable or arbitrable, that the parties cannot resolve themselves, may be presented to the arbitrator for determination as a "threshold issue" in advance of any arbitration hearing on the merits of the grievance.

Article 35 Arbitration

35.01. General A grievance not resolved in accordance with article 34 is subject to binding arbitration. Only the agency or the union may invoke arbitration in accordance with this article.

35.02. Notice of Arbitration The party invoking arbitration will prepare and file FMCS Form R-43 *Request for Arbitration Panel* with the Federal Mediation and Conciliation Service (FMCS) within 15 days of issuance of the other party's final decision concerning the grievance (or date the grievance is deemed to have been denied). The other party will be served a copy. A copy of the party's grievance will accompany the FMCS Form R-43. The party invoking arbitration will pay the costs of obtaining a list of arbitrators from FMCS.

35.03. Selecting the Arbitrator The following procedure will be used in selecting an arbitrator:

a. The parties will meet within 5 workdays of receipt of the FMCS panel of arbitrators to select an arbitrator for the case. Unless otherwise agreed, the parties will flip a coin to determine which party will strike the first name from the panel of arbitrators, following which, the parties will alternately strike names until only one name remains. That person will be the arbitrator for the case.

b. Promptly following selection of the arbitrator, the agency will notify FMCS of the parties' choice by completing and delivering the prescribed form to FMCS. FMCS will appoint the arbitrator, who is required to contact the agency within 14 days to arrange the date, place and other matters concerning the arbitration proceeding. If the arbitrator fails to do so, the agency will contact the arbitrator directly.

35.04. Arbitrator's Fee Contract As soon as the arbitrator's appointment is confirmed, the agency and the union will prepare the standard contract for arbitration services (Appendix C) and secure all necessary signatures.

35.05. Arbitrator's Fee and Expenses

a. Maximum Per Diem Arbitration Fee Amount The maximum per diem arbitration fee amount for performing grievance arbitration services shall be the per diem fee amount specified in the arbitrator's biographical sketch required by FMCS regulations.

b. Payment Arbitrator's per diem arbitration fee may consist of the following:

1. One (1) day for hearing preparations;
2. One (1) additional day for travel if traveling more than 150 miles one way;
3. One (1) day for the initial on-site hearing and one (1) day thereafter for each on-site hearing lasting 6 hours or more;

4. Maximum two (2) days for research, study and drafting the opinion and award;
5. Maximum three (3) days for preparation, research, study and drafting the opinion and award in connection with a decision on the record; and
6. Upon request of the arbitrator, one or more additional days for preparation, research and study in connection with a complex or otherwise extraordinary case, to be negotiated by the arbitrator and the parties' representatives after the record of the case has been closed.

35.06. Administrative Charge The arbitrator may charge an additional reasonable administrative charge for any extraordinary time or expense incurred in connection with pre-hearing or post-hearing administration of the case. Unless otherwise agreed by the parties, the amount of such charge will not exceed the stipulated per diem arbitration fee amount.

35.07. Billing

- a. Shared Cost The parties will share the cost of the arbitration. The arbitrator's invoice or statement will contain a detailed itemization of all fees, expenses and other charges.
- b. Payment Due Payment of the arbitrator's invoice or statement is due upon receipt of the arbitrator's opinion and award in the case.
- c. Adjustment in Amount Due In the event of any agreed adjustment in the original invoice or statement amount, the arbitrator will furnish each party a duplicate revised invoice or statement reflecting the adjustment and all credits, if any.

35.08. Travel and Transportation Expenses

a. General In addition to amounts paid to the arbitrator for performing arbitration services, parties will share the costs of the arbitrator's travel and transportation expenses, if any.

b. Travel Per Diem Travel per diem for arbitrator's meals and lodging will be the amounts allowed by Joint Federal Travel Regulations.

35.09. Selecting Hearing Date The agency and the union will jointly request the arbitrator to propose several dates within the next 60-day period when the arbitrator will be available to arbitrate the case. The agency and Union will decide which of the proposed dates are agreeable. The agency next will contact the arbitrator and request he select one of the dates available to all the parties as the hearing date. The agency will promptly notify the union of the hearing date selected by the arbitrator.

35.10. Arranging the Logistics of Arbitration The agency will be responsible for arranging the logistics of the arbitration.

35.11. Official Grievance File

a. The agency will be responsible for assembling the official grievance file, which will contain the following:

1. Case Cover Sheet
2. Grievance Synopsis
3. List of Exhibits (labeled numerically):

Exhibit 1- Agency's/Union's Final Decision

Exhibit 2- Agency's/Union's/Employee's
Formal Grievance

Exhibit 3- FMCS Form R-43 Request for
Arbitration Panel

Exhibit 4- Grievance Arbitration Services
Contract

Exhibit 5- Collective Bargaining Agreement

Exhibit 6- Parties' Submission Agreements (if
any)

4. Background Material (labeled alphabetically)
Statutes, regulations, policies, case law and other documents not included as exhibits may be included as background material to facilitate the arbitration and aide the arbitrator's understanding of the issues presented by the case.

b. The official grievance file may be supplemented before or during the hearing by agreement of the parties. The arbitrator will decide disagreements concerning the contents of the file.

c. The union will be provided a copy of the grievance file as soon as possible, but in any event, not later than 10 days following the selection of a hearing date.

35.12. Pre-hearing Matters The arbitrator may meet, hold telephone conferences or otherwise confer jointly with the parties' representatives in advance of the hearing on the merits to consider:

a. Resolution of pending threshold issues, procedural matters, and objections;

b. The necessity or desirability of pre-hearing briefs or written statements of the parties' contentions;

c. Identification of contested issues of fact and simplification of the issues;

d. Possibilities for obtaining stipulations of fact;

- e. Need for additional discovery or release of information to or by either party;
- f. Exchange of lists of witnesses expected to testify at the hearing;
- g. Marking and exchanging exhibits to be introduced at the hearing and stipulation as to the authenticity and admissibility of those exhibits;
- h. A schedule of deadlines in which to accomplish all pre-hearing matters;
- i. Resolving the case by another alternative dispute resolution (ADR) method;
- j. Settlement of the case; and
- k. Any other matters likely to facilitate final disposition of the case.

35.13. Conduct of Hearings The arbitration hearing will be conducted as follows:

- a. All persons testifying at the hearing will be placed under oath administered by the arbitrator;
- b. The arbitrator may establish reasonable ground rules to insure orderly, thorough and fair proceedings;
- c. The parties' representatives will be permitted to make opening and closing statements and (subject to relevancy) may introduce documentary or demonstrative evidence, examine and cross-examine witnesses and make proper objections to any aspect of the proceedings. The arbitrator's rulings on objections are interlocutory and may not be appealed in advance of the arbitration award;
- d. Formal rules of evidence will not apply. Evidentiary rulings will be made with a view towards insuring a thorough and fair hearing. The evidentiary standard will

be “preponderance of the evidence”. Hearsay evidence is admissible and will be given whatever weight the arbitrator decides, if any. The arbitrator’s rulings on evidentiary matters are interlocutory and may not be appealed in advance of the arbitration award;

e. Unless otherwise agreed by the parties, hearings will be held between 9:00 a.m. and 4:00 p.m., Monday through Thursday. The arbitrator, however, in order to conclude a hearing, may continue proceedings after regular working hours for a reasonable period and from day to day, as necessary.

f. At the arbitrator’s discretion, in order to insure a thorough and fair hearing, and subject to advance coordination with and authorization of agency authorities, the hearing may be temporarily adjourned to permit the arbitrator, the parties and parties’ representatives, to view agency facilities, equipment, locales, and operations or demonstrations relevant and material to the case;

g. At the request of either party, the witnesses on both sides will be placed under “the rule”, i.e., sworn in by the arbitrator and then removed from the hearing room to some place where they cannot hear the testimony being delivered by other witnesses, until such time as they are called individually to testify. The rule does not apply to an employee grievant, the management or union officials representing the parties or the parties’ hearing representatives; and

h. Hearings will be orally recorded by the agency and a copy provided to the arbitrator and union. No written transcript of the proceedings will be ordered or required. Unless otherwise agreed by the arbitrator and the parties, video recording of proceedings is prohibited.

35.14. Post-hearing Matters

a. Re-opening Unless otherwise agreed by the parties, the record of the hearing will be closed at the conclusion of the hearing or upon submission of a stipulated record to the arbitrator for decision without a hearing. Once the record is closed, the arbitrator may order the record re-opened for good cause only, for a limited and specific purpose, anytime within 14 calendar days after the original closing date. Once the record is closed, the parties may not submit any additional evidence in support of their position without the express consent of the arbitrator, which will not be given without reasonable notice and opportunity for either party to object.

b. Post-hearing Briefs The parties may file post-hearing briefs after the record is closed. The arbitrator may specify particular issues or points he wishes the parties to address in their briefs and will establish a submission deadline and a method or procedure to be utilized in exchanging/serving briefs. Post-hearing briefs will not incorporate or argue evidence, issues or points not introduced or raised during the hearing.

35.15. Opinion and Award

a. Unless otherwise agreed by the parties, the arbitrator will issue an opinion and award in the case within 60 calendar days after the record is closed. The arbitrator's opinion and award will be in writing, dated as of the date of issuance and signed.

b. The opinion and award will be consistent in all respects with the terms of the collective bargaining agreement, the parties' other agreements concerning the case, if any, and the evidence comprising the record of the case. The arbitrator shall not modify the terms of the parties' agreements in any manner. The award will be reasonably clear and precise so that the parties can understand and implement the relief being granted (or denied).

c. The opinion and award will explain the factual and legal analysis that underlies the award and will specifically discuss each of the issues of the case and how each was resolved. In addition, the opinion and award will expressly state that any relief requested by a party and not specifically made part of the award is denied.

d. The arbitrator's opinion and award will be served on the parties contemporaneously.

35.16. Decision on the Record

a. The parties may jointly request the arbitrator to render an opinion and award with respect to any dispositive procedural issue concerning the case (e.g., threshold "grievability" and "arbitrability" issues) or the merits, on the basis of a stipulated record, without the necessity for an on-site evidentiary hearing.

b. After reviewing the stipulated record of the case, if the arbitrator concludes that deficiencies in the record preclude him from making a decision concerning controverted matters, the arbitrator will so notify the parties who may cure the evidentiary deficiencies by stipulation or other agreed method. Alternatively, either party may withdraw the request for decision on the record (in which case the arbitrator will promptly schedule and conduct an on-site evidentiary hearing).

35.17. Cancellation

a. The party invoking arbitration may withdraw the case and cancel the scheduled hearing, without penalty, upon 10 calendar days (or more) advance written notice to the opposing party and the arbitrator.

b. The parties may settle the case and cancel the scheduled hearing, without penalty, upon 10 calendar days (or more) advance written notice to the arbitrator.

c. Should the party who invoked arbitration in the case, for whatever reason, withdraw the case from arbitration and cancel the scheduled hearing date, without giving the minimum 10 calendar days advance written notice, and the parties and Arbitrator are unable to agree on scheduling another case on that date, the party withdrawing the case will be solely liable for the cancellation penalty charged by the arbitrator, if any.

d. If the parties settle, resulting in cancellation of the scheduled hearing, without giving the arbitrator the minimum 10 calendar days advance written notice, the parties will each be liable for one half (1/2) the cancellation penalty charged by the arbitrator, if any.

e. Any cancellation penalty charged by the arbitrator shall not exceed the stipulated per diem arbitration fee amount.

35.18. Ex-Parte Communications The parties' representatives will not communicate with the arbitrator, orally or in writing, concerning any substantive matter involving the case, outside of scheduled hearings or telephone conferences, without informing the opposing party's representative. The parties' representatives, however, may communicate with the arbitrator, as necessary, without informing the opposing party's representative, to arrange the logistics of the arbitration or for other purely administrative matters.

35.19. Service of Documents

a. Following the invocation of arbitration in the case, copies of every pleading, motion, request, brief, paper or other document required or permitted by the parties' agreements or by the arbitrator, that are filed with the arbitrator, will be served upon the parties' hearing representative, at his designated address. All papers or documents filed with the arbitrator will include a certificate of service, which will constitute prima facie evidence of proper service on the opposing party.

b. Service may be accomplished by personal delivery, fax or mail. Service by mail is complete upon mailing. If service is accomplished by mail, three (3) calendar days will be added to any specified deadline.

35.20. Authority Terminates The arbitrator's jurisdiction and authority over the case terminates upon issuance of the opinion and award; except that, within 10 days after issuance, the parties may jointly request the arbitrator to issue a supplemental opinion and award clarifying specific issues or points of the original opinion and award. Arbitrator may (but is not required to) issue such clarification within 30 days after receipt of the parties' joint request.

Article 36

Unfair Labor Practice Procedure

36.01. General The parties agree to diligently attempt to informally resolve unfair labor practice (ULP) complaints before invoking formal ULP procedures under section 7116 of the statute and regulations of the Authority. Informal complaints will be in writing and delivered to the agency head, ATTN: CPAC Labor Relations Officer or the Union President, whichever is appropriate. The parties agree to meet and make a good faith attempt to informally resolve ULP complaints within fifteen (15) days of the informal filing. If informal resolution of the complaint is not achieved within the 15 days after informal filing, the complaining party may forward its complaint to the Authority.

Article 37

Approval, Duration and Reopening of CBA

37.01. Union Approval The union may submit the CBA to a ratification vote by employees who are members of the union. Such vote shall be conducted within 15 days from the

date the CBA is signed by the parties' chief negotiators. The union vote shall be to either approve or disapprove the CBA. If the CBA is disapproved for whatever reason, the parties will commence CBA negotiations anew within 90 days.

37.02. Agency Approval The Defense Civilian Personnel Management Service (CPMS) will approve (or disapprove) the CBA not later than 30 days from the date the agreement is approved by the union membership (or date the CBA is signed by the parties' chief negotiators, if union ratification is waived). CPMS may disapprove any provisions that violate the statute or other applicable laws, rules or regulations. Thereafter, the parties may resume negotiations to correct any legal deficiencies or, if jointly agreed, may delete the disapproved provisions from the CBA. If CPMS does not approve or disapprove the CBA within the 30-day period, the agreement shall take effect on the 31st day and shall be binding on the agency and the union, subject to the statute and any other applicable law, rule or regulation.

37.03. Duration The CBA shall remain in effect for a period of three (3) years from the date it is approved by the commander (or the date the CBA is deemed to have been approved, as provided by section 37.02 of this article). At the end of the 3-year period, the CBA will be automatically renewed, annually, on the anniversary date, unless either party gives 60 days advance written notice that it intends to renegotiate the CBA, in whole or in part. In the event the CBA (or any provision thereof) is re-negotiated, all provisions will remain in effect until negotiations are concluded.

37.04. Re-opening The collective bargaining agreement is subject to reopening:

- a. By mutual consent of the parties concerned;
- b. To modify, add or delete clauses or articles as may be necessary when new or revised laws or regulations

of appropriate authority require changes to the provisions of the agreement; or

c. For midterm bargaining negotiations which take place during the life of the agreement concerning changes to conditions of employment not covered by the terms of the collective bargaining agreement.

Article 38 General Provisions

38.01. Computation of Time Periods Unless otherwise stated, all time periods or deadlines under the CBA will be calculated using calendar days. When calculating any time period or deadline, the day an action or event occurred or the day a document was received will not be counted. The last day of a time period or deadline will be counted unless it is a Saturday, a Sunday or a legal holiday. In such case, the last day of the time period or deadline will be extended to the next regularly scheduled workday. If a document is mailed via the U.S. Postal Service, three additional days will be added to the time period or deadline. Unless otherwise stated, time periods or deadlines expire at 4:00 p.m. (1600 hours).

38.02. Construction; Partial Invalidity Provisions of the CBA will be construed in a commonsense way that gives practical effect to the intent of the parties. Should a court, the Authority, an arbitrator, the agency head or other appropriate governing authority determine that any provision of the CBA violates the statute or any other law, rule or regulation, or is otherwise unenforceable, the remaining provisions of the CBA will remain in full force and effect and will be construed together in a commonsense manner that gives meaning and practical effect to the intent of the parties.

38.03. Entire Agreement Except as otherwise expressly agreed by the parties, the CBA contains the entire agreement between the parties concerning the subject

matter and supersedes all prior or contemporaneous agreements, arrangements, practices, or understandings of the parties that in any way concern the subject matter of the CBA.

38.04. Failure to Enforce Provisions

a. A party's failure to strictly enforce a provision of the CBA, for whatever reason, shall not constitute a waiver of the party's right, following notice to the other party, to insist on full compliance at any time. Such failure shall not operate to establish or create any rule, policy or practice having the effect of canceling, modifying or establishing an exception to any provision of the CBA.

b. In accordance with section 7114 (b) (5) of the statute the duty of the agency and the union to negotiate in good faith shall include the obligation, if agreement is reached, to execute on the request of any party to the negotiation, a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

38.05. Official Text; Copies

a. Official Text The parties have executed and each has been provided a duplicate original of the CBA. The parties stipulate that these duplicate originals approved by the parties as provided in article 37 contain and constitute the official text of the CBA.

b. Copies Following approval the agency will print 350 copies of the CBA, at no cost to the union, for distribution by the union to employees. Thereafter, the union may obtain additional copies of the CBA from the agency upon payment of the agency's actual per copy cost. Printed copies may be reproduced in a different format than the duplicate originals. Copies of the CBA (other than duplicate originals), including printed copies are not official texts of the CBA unless the agency and the union so certify in writing.

38.06. Subsequent Agreements Subsequent amendments, additions or modifications to the CBA or any subsequent agreements reached through collective bargaining concerning a new subject matter will not have any binding effect on the parties unless in writing and signed by authorized representatives of the agency and the union. Unless otherwise agreed, such writings shall be in the form of either a memorandum of agreement (MOA) or memorandum of understanding (MOU), as appropriate. The parties may adopt standardized formats for MOA's and MOU's.

38.07. Word Gender Any use of a male gender noun or pronoun in the CBA shall be deemed to include the female gender, and vice versa.

Signed at Fort Eustis, Virginia on November 8, 2000.*

FOR THE AGENCY

FOR THE UNION

/s/

EDWARD BROWN, JR.
Chief Negotiator

/s/

LEE V. GEORGE
Chief Negotiator

/s/

CAROL ALDRIDGE
Agency Team Member

/s/

JAMES D. GLENN
Alternate Chief Negotiator

DEBRA MITCHELL
Agency Team Member

/s/

JOAN FLUDD
Union Team Member

/s/

THOMAS MORRELL
Agency Team Member

/s/

EDWARD STUKART
Union Team Member

* This CBA amends and supercedes the CBA signed at Fort Eustis, Virginia on September 12, 2000.

/s/
FREDRICK YGLESIAS
Union Team Member

Approved at Fort Eustis, Virginia, on November 15, 2000.

FOR THE AGENCY

FOR THE UNION

/s/
DONALD D. PARKER
Brigadier General, U.S.A.
Commanding

/s/
LEE V. GEORGE
President
AFGE Local 2855

/s/
JAMES D. GLENN
Vice-President
AFGE Local 2855

